

Barbados economic substance summary



Overview

In November 2018, the Organisation for Economic Cooperation and Development (the “OECD”) Inclusive Framework released a publication entitled **“Resumption of Application of Substantial Activities Factor to No or only Nominal Tax Jurisdictions”**. The main purpose of this document is to prevent zero and low tax jurisdictions from attracting profits from certain geographically mobile activities without corresponding economic activities.

In response to this OECD initiative, Barbados enacted the Business Companies (Economic Substance) Act, 2018, which has now been repealed and replaced by the Companies (Economic Substance) Act 2019-43 ('the Act') which is in turn supported by the Economic Substance Guidelines Version 1.2 ('the Guidelines'). The Guidelines provide support for understanding the scope and application of the Act. The Act was passed on 29 November 2019 and requires a resident entity which derives income from carrying on a relevant activity to satisfy the economic substance test in relation to that relevant activity.



What is a resident company?

A “resident company” is one, which is either:

- a) a company, society with restricted liability or association (other than an association of underwriters), whether incorporated or organized in Barbados or elsewhere, that is managed and controlled in Barbados; or
- b) a company incorporated outside Barbados, that is registered in Barbados as an external company and is not considered to be a tax resident of the country where it was incorporated; or
- c) a company that is incorporated in Barbados and is not tax resident in any other country.



What is a relevant activity?

A relevant activity encompasses any of the following categories of business:

- banking business;
- insurance business;
- fund management business;
- finance and leasing business;
- headquarters business;
- shipping business;
- holding company business;
- intellectual property business;
- distribution and service center business; and
- such other activities as the Minister may by order prescribe.

A resident company that is carrying on more than one activity is required to satisfy the economic substance test in relation to each relevant activity.



What is the economic substance test?

A resident company carrying on any of the above relevant activities, which is not tax resident in another jurisdiction, must, in relation to that relevant activity, meet the economic substance test. The economic substance test will assess the extent to which the entity conducts its core income generating activities and is directed, managed and controlled in Barbados in relation to that relevant activity in Barbados, specifically:

- whether adequate meetings are held and attended by the board of directors in Barbados; and
- having regard to the level of relevant activity carried on in Barbados whether:
 - an adequate number of qualified full-time employees were physically present in Barbados in relation to that activity;
 - adequate operating expenditure was incurred in Barbados; and
 - adequate physical assets exist in Barbados.



What is the commencement date?

A resident company that was in existence prior to the commencement of the Act, must comply from 1 January 2019. A resident company that is created after the date of commencement of the Act must comply from the date on which it begins a relevant activity.



What is the compliance timeline for grandfathered resident companies?

An entity that was grandfathered under any of the tax regimes that were repealed in 2018, must comply with the provisions of the Act from 2 January 2021 onwards. These include entities holding any of the following licenses:

- an International Business Company license;
- an International Society with Restricted Liability license;
- an Exempt Insurance Company license; or
- an International Financial Services Company license.



What are the reporting procedures?

A resident entity must file an economic substance declaration ('the Declaration') annually in the prescribed form on or before the date stated in the Guidelines. The Guidelines stipulate that a resident entity shall after 1 January 2020, file the Declaration with the Director annually within twelve months after the last day of the end of each fiscal period. The term "fiscal period" is defined under the Barbados Income Tax Act as "**in relation to a company or other person carrying on a business, means the period for which the accounts of the business have been ordinarily made up and accepted for the purposes of income tax...**"

The Barbados competent authority has implemented a self-reporting portal whereby an officer of the resident company designated to handle all matters related to economic substance, or a third party licensed corporate service provider will upload certain prescribed information into the portal.

A resident entity which is required to satisfy the economic substance test must provide the following information:

- business/income types identifying the type of relevant activity;
- amount and type of income by relevant activity;
- amount of operating expenditure by relevant activity;
- details of business address;
- number of (qualified) full time employees;
- confirmation of the core income generating activities conducted for each relevant activity; and
- confirmation of whether any core income generating activities have been outsourced and if relevant, the details of such outsourcing.



How can we help?

For further information or assistance in completing an economic substance assessment for your company, please contact any of the following.



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